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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/038,630	01/03/2002	Shawn D. Bush	3675-010819	9469

7590 02/24/2004

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EXAMINER

FRISTOE JR, JOHN K

ART UNIT	PAPER NUMBER
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3754

DATE MAILED: 02/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/038,630

Applicant(s)

BUSH, SHAWN D.

Examiner

John K. Fristoe Jr.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 January 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4/11/2002.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed 4/11/2002 is acknowledged by the examiner.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "external control unit" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance. This objection can be overcome by providing a black box to represent the external control unit, which will reduce the risk of introducing new matter

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 4-8, 10-13, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 6,018,827 (Shaw et al.). Shaw et al. disclose a kit (fig. 11) for a fluid control switch comprising an adapter (106), a switch housing (100), a switch orifice (120), a switch orifice rim (adjacent element 120 in figure 8), an activation portion (122), a signal switch (110), a communication line (112) which is a phone line (col. 7, lines 7-10), a signal switch medium (104), the adapter element has an outer surface having external threads (126) that correspond to

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the threads (128) disposed on the switch orifice inner wall, the adapter element (106) has a unitary body, wherein the signal switch (110) produces a data signal (col. 8, lines 49-52) that is sent to a control box (162) allowing fluid to flow through a control valve (166) and further through a faucet (172) and a method of retrofitting the faucet using the above described fluid control switch.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2, 3, and 14-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 6,018,827 (Shaw et al.) in view of U.S. Pat. No. RE37,888 (Cretu-Petra). Shaw et al. disclose the above described fluid control switch but lacks having the switch having an analog/ digital converter. Cretu-Petra teaches a fluid control switch having an analog/ digital converter (col. 4, lines 48-52). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the fluid control switch of Shaw et al. by incorporating an analog/ digital converter as taught by Cretu-Petra in order to more accurately control the valve since a digital signal is a more discrete signal.

7. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 6,018,827 (Shaw et al.) in view of engineering expedient. Shaw et al. disclose the above described fluid control switch having a switch housing made of steel (col. 6, lines 66-67) but lacks having the adapter element made of steel. It would have been obvious as a matter of

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engineering expedient to manufacture the adapter element out of steel since the switch housing is made of steel and the switch housing and adapter element are threaded together. It would have been obvious to one of ordinary skill in the art at the time the invention was made modify the fluid control switch of Shaw et al. by manufacturing the adapter element out of steel as a matter of engineering expedient in order to strengthen the connection between the switch housing and adapter element.


8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John K. Fristoe Jr. whose telephone number is (703) 308-1437. The examiner can normally be reached on Monday-Friday, 7: 00 a.m-4: 30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Louis G. Mancene can be reached on (703) 308-2696. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JKF

John K. Fristoe Jr.
Examiner
Art Unit 3754


EDWARD K. LOOK
SUPERVISORY PATENT EXAMINER
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2/23/04